

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MILAGROS LUDY	:	CIVIL ACTION
	:	
v.	:	
	:	
JO ANNE B. BARNHART	:	No. 05-2440

ORDER

AND NOW, this 16th day of March, 2006, upon consideration of plaintiff's motion for summary judgment (docket entry # 6), defendant's motion for summary judgment (docket entry # 7), the February 28, 2006 Report and Recommendation of the Honorable Peter B. Scuderi (docket entry # 9), and defendant's failure to object within ten days of service of the Report and Recommendation, as required by 28 U.S.C. § 636(b)(1) and the letter accompanying the Report and Recommendation, and the Court, in any event, agreeing with Judge Scuderi's cogent analysis,¹ it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED;
2. Defendant's motion for summary judgment is DENIED;
3. Plaintiff's motion for summary judgment is GRANTED IN PART and DENIED IN PART, and this matter is REMANDED to the Commissioner for further consideration; and

1. Judge Scuderi recommended that we remand this matter to enable the Commissioner to reconsider: (1) plaintiff's impairments in assessing her residual functional capacity; (2) the impact of plaintiff's functional limitations on the occupational base; and (3) plaintiff's subjective complaints of pain.

4. The Clerk shall CLOSE this matter statistically.²

BY THE COURT:

/s/ Stewart Dalzell, J.

2. If the parties conclude that attorney's fees and costs are warranted and agree on an amount, they shall file a stipulation by March 31, 2006.